

Message Text

CONFIDENTIAL

PAGE 01 CARACA 10313 270109Z

73

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 AID-05 CIAE-00 COME-00 FRB-03

INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02

CIEP-01 OMB-01 PM-04 NSC-05 SS-15 L-03 /071 W

----- 008640

R 261740Z AUG 76

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 4511

INFO SECDEF WASHDC

USCINCSO QUARRY HEIGHTS

C O N F I D E N T I A L CARACAS 10313

SECDEF FOR ISA

USCINCSO FOR SC-O

E.O. 11652: GDS

TAGS: EFIN, MASS, VE

SUBJECT: LATIN AMERICAN MILITARY MISSION DEBT ARREARAGES-VENEZUELA

REF: STATE 136243 (NOTAL)

1. WE HAVE THOROUGHLY REVIEWED THE DEBT ARREARAGES PROBLEM FOR THE U.S. MILITARY MISSIONS IN VENEZUELA AND BASED ON THE FILES WE HOLD CONCLUDE THAT, EXCEPT FOR THE NAVAL MISSION, WE HAVE AT BEST A DOUBTFUL BASIS UPON WHICH TO REQUEST PAYMENT FROM THE GOV FOR THE REMAINING OUTSTANDING DEBTS. ACCORDING TO OUR ANALYSIS, THE ARMY MISSION AGREEMENT OF AUGUST 10, 1951 WHICH WAS EXTENDED BY AN EXCHANGE OF NOTES ON FEBRUARY 11, 1957 TO OPERATE RETROACTIVELY FROM AUGUST 10, 1955, OFFICIALLY EXPIRED ON AUGUST 10, 1959 (TIAS 3764). SIMILARLY, THE AIR FORCE MISSION AGREEMENT EXPIRED ON JANUARY 16, 1961 (TIAS 3763). THE NATIONAL GUARD MISSION AND THE MILGP HEADQUARTERS THEMSELVES HAVE NEVER HAD SEPARATE AGREEMENTS AND THEREFORE HAVE NO LEGAL STATUS. ONLY THE NAVAL MISSION AGREEMENT CONTINUES IN FORCE (TIAS 4382).

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 CARACA 10313 270109Z

2. SITUATION IS FURTHER CONFUSED BY FACT THAT NOTWITHSTANDING THE EXPIRATION OF THE AIR FORCE AND ARMY AGREEMENTS, THE GOV HAS CONTINUED TO MAKE CERTAIN SELECTED PAYMENTS CALLED FOR IN THE EXPIRED AGREEMENTS, AS FOLLOWS: A) ARMY-GOV CONTINUES TO PAY COMPENSATION, BUT DOES NOT REPEAT NOT ACKNOWLEDGE PCS AND RELATED EXPENSES; B) AIR FORCE-GOV ACKNOWLEDGES COMMITMENT TO PAY BOTH COMPENSATION AND PCS; C) NAVY-GOV ACKNOWLEDGES BOTH PAYMENTS FOR COMPENSATION AND FOR PCS; D) NATIONAL GUARD-ALTHOUGH THERE NEVER HAS BEEN A SEPARATE AGREEMENT FOR THE NATIONAL GUARD, THE VENEZUELAN NATIONAL GUARD DOES PAY COMPENSATION BUT DOES NOT PAY ANY PCS OR RELATED EXPENSES; E) MILGP HEADQUARTERS-THE VENEZUELAN PAY NO COMPENSATION OR PCS FOR MILGP OFFICIALS.

3. THESE CRAZY-QUILT ARRANGEMENTS GIVE RISE TO SEVERAL OBSERVATIONS ABOUT THE LEGAL OBLIGATIONS OF THE GOV TO PAY ANY DEBTS WHICH APPEAR TO US TO BE, AT BEST, MOOT.

A) SINCE THE GOV HAS SEEN FIT, ON A PRACTICAL BASIS, TO HONOR ONLY SELECTED FINANCIAL OBLIGATIONS ARISING FROM THE EXPIRED ARMY AND AIR FORCE AGREEMENTS, TO WHAT EXTEND, IF ANY, DOES THE UNITED STATES GOVERNMENT BELIEVE THE GOV TO BE BOUND TO ALL THE TERMS OF THE EXPIRED AGREEMENTS?

B) IF WE DO NOT BELIEVE THE GOV IS BOUND TO ALL THE PREVIOUS LEGAL REQUIREMENTS, WHAT CRITERIA COULD BE APPLIED TO THOSE WHICH WE DO BELIEVE THEY ARE LEGALLY BOUND TO ACCEPT UNDER INTERNATIONAL LAW?

C) CLEARLY THE GOV DOES NOT BELIEVE ITSELF TO BE BOUND BY ALL THE TERMS OF THE EXPIRED AGREEMENTS AND HAS, IN FACT, MADE ONLY SELECTED PAYMENTS AS NOTED ABOVE. THUS IT CERTAINLY IS NOT AWARE THAT WE MIGHT CONSIDER THAT THESE EXPIRED AGREEMENTS RETAIN LEGAL VALIDITY, IF SUCH IS THE BASE.

D) FINALLY, THE GOV COULD, IN THEORY, STOP ALL PAYMENTS FOR COMPENSATION AND PCS (EXCEPT FOR THE NAVY). IN THIS CASE, PRESUMABLY WE WOULD BE HARD PUT TO FIND COGENT LEGAL GROUNDS TO MAKE THE CASE THAT THEY ARE STILL REQUIRED TO PAY.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 CARACA 10313 270109Z

4. FOLLOWING ARE MILGP/EMBASSY BEST CALCULATIONS OF ALLEGED ARREARAGES DUE, BASED ON THE TERMS OF THE EXPIRED AGREEMENTS. THESE CALCULATIONS ARE SUBMITTED IN AN EFFORT TO CLARIFY THE MEANING OF THE FIGURES CONTAINED IN THE "REPORT ON MILITARY MISSION DEBT ARREARAGES WITH RECOMMENDATIONS FOR JOINT STATE/ DEFENSE ACTIONS TO RESOLVE THE DEBTS," WHICH WAS AN ATTACHMENT TO THE EAGLEBURGER-JORDAN LETTER OF APRIL 1, 1976.

A) ARMY-(1) COMPENSATION-JOINT STATE/DEFENSE FIGURE OF \$73,061.81 IS DUE. ON NOVEMBER 10, 1975 \$29,733.57 OF THIS TOTAL WAS PAID FOR THE FOURTH QUARTERS OF CY 74 AND THE FIRST TWO QUARTERS OF CY 75. \$30,481.63 IS STILL OUTSTANDING FOR THE FIRST THREE QUARTERS OF CY 74 BUT THE VENEZUELAN ARMY COMPTROLLER HAS ACKNOWLEDGED THIS AMOUNT AS A VALID CLAIM AND PLANS TO SUBMIT A REQUEST FOR FUNDS TO PAY THIS DEBT. FINALLY, \$12,846.60 OF THE TOTAL CANNOT BE VALIDATED FROM MILGP/EMBASSY RECORDS. (2) PCS AND RELATED EXPENSES-JOINT STATE/DEFENSE FIGURE OF \$294,695.10 DUE. MILGP/EMBASSY RECORDS INDICATE THAT THIS FIGURE IS CORRECT FOR THE PERIOD AUGUST 11, 1961-JANUARY 17, 1974. HOWEVER, THE VENEZUELAN MINISTRY OF DEFENSE (MOD) MAINTAINS (AS NOTED ABOVE) THAT THE ARMY MISSION AGREEMENT EXPIRED LONG AGO AND THEREFORE NO BILLINGS FOR PCS AND RELATED EXPENSES HAVE BEEN VALID FROM THE DATE OF EXPIRATION. (NOTE: THE MOD CALCULATES THAT THE ARMY MISSION AGREEMENT EXPIRED ON AUGUST 10, 1961, ALTHOUGH OUR READING OF THE RELEVANT DOCUMENTS INDICATE THAT IT EXPIRED TWO YEARS EARLIER, SEE PARA 1. THE DEPARTMENT'S ELUCIDATION ON THIS POINT WOULD BE APPRECIATED.) IT SHOULD ALSO BE NOTED THAT THE FIGURE OF \$294,695.10 INCLUDES EXPENSES FOR U.S. ARMY MEMBERS ASSIGNED BOTH TO THE ARMY SECTION AND THE NATIONAL GUARD. BOTH THE VENEZUELAN ARMY AND THE NATIONAL GUARD HAVE REFUSED TO PAY PCS AND RELATED EXPENSES FOR U.S. ARMY PERSONNEL ASSIGNED TO THE VENEZUELAN NATIONAL GUARD BECAUSE THERE HAS NEVER BEEN ANY MISSION AGREEMENT REGARDING NATIONAL GUARD PERSONNEL.

B) AIR FORCE DEBTS-(1) COMPENSATION-JOINT STATE/DEFENSE FIGURE OF \$23,744.85. THE VENEZUELAN AIR FORCE PAID THIS TOTAL TO US ON JULY 21, 1976. HOWEVER, THE TOTAL IS NOT REPEAT NOT CORRECT ACCORDING TO OUR CALCULATIONS BECAUSE THE AIR FORCE INCORRECTLY INCLUDED A PAYMENT OF \$6,000 FOR PCS AND RELATED EXPENSES IN THIS CATEGORY. (2) PCS AND RELATED EXPENSES-BACK

CONFIDENTIAL

PAGE 04 CARACA 10313 270109Z

DEBT. RE THE AIR FORCE, WE ALSO HAVE ANOTHER ANOMALY IN THAT THE AFAFC, DENVER, IN MAY, 1974 SENT COPIES OF OUTSTANDING INVOICES AND SUPPORTING DOCUMENTS ON U.S. AIR FORCE MISSION PERSONNEL ASSIGNED TO CARACAS OVER THE PERIOD FEBRUARY, 1969-AUGUST, 1971 TO THE VENEZUELAN AIR FORCE. THE AIR FORCE HAS ACKNOWLEDGED RECEIPT OF THIS DOCUMENTATION, BUT HAS CATEGORICALLY REFUSED FURTHER CONSIDERATION OF THIS MATTER BECAUSE THE DEBT WAS INCURRED YEARS AGO AND NO MONIES CAN BE LEGALLY PROGRAMMED FOR BILLS NOT SUBMITTED IN A TIMELY MANNER BECAUSE OF THEIR BUDGET CYCLE.

C) NAVY DEBT-(1) COMPENSATION-JOINT STATE/DEFENSE FIGURES OF \$18,899.65. THIS DEBT WAS PAID IN FULL ON NOVEMBER 10, 1975 COVERING THE PERIOD JANUARY 1, 1975-JUNE 30, 1975. HOWEVER, AS IN THE CASE OF THE AIR FORCE, THE PAYMENTS ARE

ALLOCATED TO INCORRECT CATEGORIES, SINCE ONLY \$13,359.39 IS FOR SALARY REIMBURSEMENT AND THE REST SHOULD HAVE BEEN FOR PCS AND RELATED EXPENSES (\$5,540.26). (2) PCS AND RELATED EXPENSES-JOINT STATE/DEFENSE FIGURES OF \$22,029.24. THIS FIGURE CANNOT BE VERIFIED FROM RECORDS AVAILABLE TO US. IT IS POSSIBLE, OF COURSE, THAT OVER THE YEARS SOME OR ALL OF THIS DEBT HAS BEEN PAID BUT THAT PROPER CREDIT WAS NOT GIVEN TO THE CORRECT ACCOUNT, ALTHOUGH WE HAVE NO WAY OF KNOWING WHETHER THIS IS THE CASE.

D) MILGP HEADQUARTERS-ALL PERSONNEL ASSIGNED TO MILGP HEADQUARTERS, WITH THE CURRENT EXCEPTIONS OF THE ADMIN OFFICER AND ADMIN SUPERVISOR, ARE NOT ACCREDITED TO A SPECIFIC VENEZUELAN ARM AND THEREFORE NOT ENTITLED TO ANY REIMBURSEMENTS OF ANY KIND FROM THE GOV.

5. COMMENT: OUR ASSESSMENT, GIVEN THE FOREGOING, IS THAT IT WOULD BE BOTH INCONGRUOUS AND PROBABLY COUNTER-PRODUCTIVE TO APPROACH THE GOV WITH A VIEW TO OBTAINING FULL PAYMENTS ON THE ALLEGED ARREARAGES DESCRIBED ABOVE. EXCEPT FOR THE NAVY ACCOUNT WHICH IS CURRENT, THERE IS A SERIOUS DOUBT IN OUR MINDS WHETHER THE GOV IS UNDER ANY OBLIGATION TO MEET THE TERMS OF EXPIRED AGREEMENTS. FURTHER, WE ARE NOT CLEAR PRECISELY WHICH COMMITMENTS EITHER WE OR THE VENEZUELAN BELIEVE ARE BINDING. NEXT, SOME FIGURES CANNOT BE VALIDATED FROM AVAILABLE RECORDS. IN ADDITION, EVEN IF OUR CALCULATIONS WERE FULLY JUSTIFIABLE
CONFIDENTIAL

CONFIDENTIAL

PAGE 05 CARACA 10313 270109Z

IN ALL CASES, TO PRESS THE GOV COULD PLACE IN JEOPARDY THE ILL-DEFINED STATUS OF ALL OF THE PERSONNEL (EXCEPT THE NAVY) IN OUR MILITARY MISSIONS. AND FINALLY, ANY APPROACH AT THIS TIME ON THE ARREARAGES PROBLEM WOULD ALSO RAISE PREMATURELY THE UNCERTAIN FUTURE OF THE MILGP BECAUSE OF RECENTLY ENACTED CONGRESSIONAL LEGISLATION. CONSEQUENTLY, WHILE WE WISH WE WERE IN A POSITION TO RESOLVE THIS LONG-STANDING PROBLEM, WE THINK IT BEST NOT TO OPEN THIS PANDORA'S BOX.
VAKY

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY ASSISTANCE, DEBT REPAYMENTS, GOVERNMENT DEBTS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: powellba
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976CARACA10313
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760326-1237
From: CARACAS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760818/aaaaapay.tel
Line Count: 210
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 STATE 136243
Review Action: RELEASED, APPROVED
Review Authority: powellba
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by ShawDG>; APPROVED <05 NOV 2004 by powellba>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LATIN AMERICAN MILITARY MISSION DEBT ARREARAGES-VENEZUELA
TAGS: EFIN, MASS, VE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006